Google Inc. et al v. Egger et al
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EXHIBIT C

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
BEFORE THE HONORABLE VAUGHN R. WALKER, JUDGE, CHIEF

IN RE: NATIONAL SECURITY)
AGENCY TELECOMMUNICATIONS) MDL C 06-1791 (VRW)
RECORDS LITIGATION)
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San Francisco, California
Friday, November 17, 2006

TRANSCRIPT OF PROCEEDINGS

APPEARANCES:

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single master complaint would be terribly unwieldy and would not tease out the issues that may be peculiar or individual to the separate telecommunications companies. And I think the sensible way to proceed is to require the filing of a master complaint directed to those telecommunications companies, with the exception of AT&T. I'm not sure I subscribe to Mr. Ericson's theory of 1292 jurisprudence, but in any event, we do have the Hepting case which at the moment can proceed as the lead complaint against AT&T. And after I've had a chance further to consider the question of what the pendency of the interlocutory appeal in the Hepting case does with respect to forming a single consolidated AT&T complaint, I think we can proceed with the Hepting complaint in place and require simply a master complaint against the other individual telecommunications companies: BellSouth, TDS, Verizon, Sprint, Comcast, and the others. I guess Charter Communications is one of the defendants also.

So probably it make the most sense, Miss Cohn, to have a BellSouth complaint, a Verizon complaint, a Sprint complaint, and -- well, make a claim against all the others.

MS. COHN: Complaint against all the others?

THE COURT: Does that make the most sense?

MS. COHN: We suggested that we separate out MCI as well because their facts are different. But then yes, have the kind of the telcos that are the smaller ones -- well, not

smaller in size, but in their participation so far, in a miscellaneous complaint. I think that would be appropriate.

THE COURT: You're suggesting two complaints against Mr. Rogovin's client?

MS. COHN: I am your Honor.

THE COURT: That got him on his feet fast.

MS. COHN: I am, your Honor, and the reason I'm -- we are suggesting that is because MCI was just purchased by Verizon, you know, a very short time ago. Their networks are still very different. They are, for all practical purposes, other than corporate ownership a separate telco, and a rather large one, from Verizon. So we think that -- and again, Verizon has very carefully distinguished what it's saying about what it did from what MCI did, so we think all of those reasons make MCI really look like a separate telecommunications company for our purposes in this case, and so that's why we want a separate complaint against them.

MR. ROGOVIN: Your Honor, if I might be heard very briefly. It's all one company. If they have something separate to say about MCI, it can be in the one complaint, and we would ask that there be one consolidated complaint that would track the defendants that are listed: In Footnote 4, those are the Verizon defendants. That's how we've organized today's presentation, and I think that makes all the sense. I don't see any basis to be splitting up defendants like that.

And so I would ask that, with your guidance, that plaintiffs be asked to limit themselves to one complaint against the Verizon defendants covering the defendants in Footnote 4.

MR. PERKINSON: Your Honor, if I may be heard?

THE COURT: Yes. And you are?

MR. PERKINSON: Jacob Perkinson on behalf of plaintiff Roslyn Payne, who originally filed her case in Vermont and is, in fact, a Verizon subscriber.

In this instance, I would agree with the defendants that there should be a similar complaint on behalf of the Verizon subscribers. I also would like to point out that at this point the Court has not appointed lead counsel, and that was one of the things on the agenda. There are two competing suggestions, one by Plaintiff Payne, and one by the EFF group. I don't know if your Honor intends to address that, but it seems that that --

THE COURT: I do, I do.

MR. PERKINSON: Shall I sit down or --

THE COURT: Well, yes, let's take that up a little later.

MR. PERKINSON: Okay. Thank you.

THE COURT: Unless you have anything further, Miss Cohn, I'm inclined to agree with Mr. Rogovin that a complaint against all the Verizon defendants would be appropriate. Indeed, I think we should organize the complaints exactly along the lines that you set forth on Pages 2 and 3 of the joint case management statement: One master complaint against the current Verizon defendants as set forth in Paragraph 2, Footnote 4; one master complaint against the BellSouth defendants as set forth in Footnote 5; one master complaint against the Sprint defendants identified in Footnote 6; and then an extra complaint directed against the other defendants who are identified in Footnote 7. And I would ask that those complaints be filed by the 18th of December.

And I'm going to stay our discussion on the 21st of December the question of whether the defendants should be required to answer, move or otherwise respond to those master complaints. I think it would be more illuminating to address that question after we see the master complaints. And we may have some further briefing on that question, but I think that's an issue to be discussed on the 21st of December.

And I wonder if we cannot profitably on the 21st of December also consider whether the Hepting order should not apply to any assertion of state secrets privilege in all of the other cases besides Hepting if there is some reason why the Hepting order should not apply, and this is obviously something that the defendants and plaintiffs may not have universal views on. I think it would be helpful to tease those issues out to the extent we can on the 21st of December.